

Industrial Design Rights Law

(Pyidaungsu Hluttaw Law No)

(), (), 2017

Pyidaungsu Hluttaw enacted this Law.

Chapter I

Title, Effective Date and Definition

1. (a) This Law shall be called the **Industrial Design Rights Law**.
- (b) This Law shall be in force starting from the date determined by **the President** by notification.
2. The expressions in this Law shall have the meanings given hereunder:
 - (a) **Union** means the Republic of the Union of Myanmar;
 - (b) **Ministry** means the Union Ministry of Education;
 - (c) **Committee** means the Intellectual Property Rights Committee;
 - (d) **Department** means the Department assigned duties by the Ministry to perform Intellectual Property Rights related matters;
 - (e) **Director General** means the Director General of the Department;
 - (f) **Intellectual Property Right** means the right given under the law to protect the invention and innovation made by one's intelligence. It includes the copyright, patent, industrial design right and trademark;
 - (g) **Industrial Design** means lines, sketches, colour, shape, configuration, pattern, features or ornament applied to a product or external features of a whole or part of the product resulting from features and ornament, by any industrial or manual process;
 - (h) **Product** means any product made by any industrial or manual process. This expression also includes any parts to be attached to that product, its symbols, printed words, packing and other decoration, but does not include computer programmes;
 - (i) **Owner of an Industrial Design** means a person or legal entity registered and recognized as the Owner of an Industrial Design in the Register of the Department;
 - (j) **Creator** means any person who creates the Industrial Design;
 - (k) **Right Holder** means a person or legal entity that is entitled to the rights of the Owner of an Industrial Design;
 - (l) **Employer** means any person, government department or organization or legal entity that hire one or more employees on wages of mutual consent for any trade under the relevant employment agreement, including managing, supervising and administering the employees directly or indirectly and is responsible to pay wages to the employees, hire employees or terminate the employment. This expression also includes the legal managerial agent of the employer and in private business if the employer passed away, his/her heir and the legal successor of shares are also included;

- (l) **Employee** means a person who makes a living by using his/her physical or intellectual power. This expression also includes employees of the government departments or organizations or legal entities;
- (m) **Contracting Country** means any member country of the Intellectual Property Right related Conventions, Treaties or Agreements or related international organizations or regional organizations to which the Union is a member;
- (n) **Court** means the Court established by the Union Supreme Court under this Law to inspect and judge the matters relating to Intellectual Property Rights. This expression also includes any courts conferred with jurisdiction and powers to inspect and judge the matters relating to Intellectual Property Rights by the Union Supreme Court before the enactment of this Law.
- (m) **Registering Officer** means any Officer who is not a subordinate to the Director at the Department that is responsible for Industrial Design Registration;
- (n) **Inspection Officer** means any Officer who is not a subordinate to the Head of the Staff (Senior Officer) at the Department that is responsible for inspection of Industrial Design Registration;
- (o) **Priority Right** means the right mentioned under section 36 of this Law; and
- (p) The meaning of the **Priority Right relating to Trade Show** is mentioned under section 37 of this Law.

Chapter II

Objectives

- 3. The objectives of this Law are given hereunder:
 - (a) to protect the rights and interests of the Owner of an Industrial Design and Creator in accordance with this Law;
 - (b) to support the development of industries by protecting the Industrial Design Creation;
 - (c) to support the development and propagation of Industrial Design Technology;
 - (d) to mutually benefit the prosperity of technological knowledge and socio-economic lives of the Creator and Industrial Design Users; and
 - (e) to support the balance between the liabilities to be borne by the Creator and Industrial Design Users and their rights.

Chapter III

Formation of the Committee and their Functions

- 4. The Union Government:
 - (a) shall form the Intellectual Property Rights Committee by comprising the Union Minister of Education as the Chairman, the Deputy Ministers or Director Generals from the relevant Ministries, Representatives from Non-government Organizations as Members and the Director General of the Department as the Secretary;
 - (b) shall identify the Deputy Chairman and Joint Secretary among the Members; and
 - (c) may reform the Committee formed under sub-section (a) as required.

5. The functions of the Committee are given hereunder:
- (a) to supervise and guide the laying down of Intellectual Property Rights related policies, strategies and programmes and the implementation of them at the National Level and for proper development of the Intellectual Property Right System in the Union;
 - (b) to suggest and recommend the Intellectual Property Rights related conventions, treaties and agreements to which the Union should be a signatory;
 - (c) to form the required task forces and determine their duties so that relevant actions could be taken against infringement of the Intellectual Property Rights; and
 - (d) to carry out the Intellectual Property Rights related duties assigned by the Union Government.

Chapter IV

Functions of the Department

6. The Department shall conduct the following functions in order to manage and implement the matters relating to Intellectual Property Rights:
- (a) cooperating on matters relating to Intellectual Property Rights;
 - (b) implementing the Intellectual Property Rights related policies, strategies and projects laid down by the Committee relating at the National Level;
 - (c) observing the Intellectual Property Rights related conventions, treaties and agreements and suggestions of the Committee as to whether or not the Union should be a signatory to any of those;
 - (d) suggesting the Committee to form the required task forces and determine their duties so that relevant actions could be taken against infringement of Intellectual Property Rights;
 - (e) implementing the provisions of the Intellectual Property Rights related conventions, treaties and agreements to which the Union is a signatory;
 - (f) cooperating with the relevant organizations, international organizations, regional organizations and member countries for Intellectual Property Rights;
 - (g) determining the seal to be used when approving the registration of Intellectual Property Rights;
 - (h) forming the required task forces and determining their duties in order to perform Intellectual Property Rights related functions;
 - (i) determining the fees and charges to be collected under this Law under the approval of the Union Government;
 - (j) announcing the Intellectual Property Rights related registration matters;
 - (k) maintaining the Registers of Intellectual Property Rights; and
 - (l) performing the Intellectual Property Rights related duties assigned by the Union Government, Ministry and Committee from time to time.

Chapter V

Appointment of the Registering Officer and Inspection Officer and Determining Their Duties

7. The Director General may assign duties to the Registering Officer and Inspection Officer under the approval of the Ministry in order to perform functions relating to Intellectual Property Rights.
8. The duties of the Registering Office shall include:
 - (a) supervising and monitoring the registration and inspection of Industrial Design;
 - (b) cooperating on the report made by the Inspection Officer when performing the matters relating to Industrial Design;
 - (c) deciding whether to approve or refuse the Industrial Design Registration; and
 - (d) performing the duties assigned by the Committee and Department relating to Intellectual Property Rights.
9. The duties of the Inspection Officer are given hereunder:
 - (a) inspecting the application for Industrial Design Registration;
 - (b) reporting the findings to the Registering Officer together with the remark after inspecting the objection and defence relating to the application for the Industrial Design Registration;
 - (c) making inquiries with the required persons and requesting the information and documents when performing the Intellectual Property related functions;
 - (d) reporting to the Registering Officer together with the remark whether or not the application for Industrial Design should be registered after inspecting it; and
 - (e) performing the duties assigned by the Committee, Department and Registering Officer relating to Intellectual Property Rights.

Chapter VI

Industrial Design for which Protection is Available

10. Protection will be available for any new Industrial Designs that are created without plagiarism.
11. An Industrial Design shall be regarded as being new unless it is printed, used, published, displayed or disclosed in any manner locally or internationally for public information before the application date of its registration or in case of application for Priority Right, before the application date of such Priority.
12. An Industrial Design shall not be regarded as being new if it is combined with or not significantly different from the features of the Industrial Design that are commonly known to everyone.

Chapter VII

Industrial Design for which No Protection is Available

13. No protection will be available for any Industrial Designs that include:
 - (a) technical or visual effects; or

- (b) negative impacts on peace, stability, morality, religion of the public and vulnerable culture of the Union.

Chapter VIII

A Person who has the Right to Apply for Industrial Design Registration

- 14. Either the Creator of an Industrial Design or his/her legal heir or authorized transferee can apply for the registration of such Industrial Design.
- 15. If an Industrial Design is created by more than one person, all of them can jointly apply for the registration of such Industrial Design.
- 16. When an Industrial Design is created subject to the employment contract between the Employer and Employee or subject to the consequence of such employment contract,
 - (a) only the Employer has the right to apply for the registration of such Industrial Design provided that the Employee must create it without being contrary to the terms and conditions of the employment contract.
 - (b) if the Employer fails to apply for the registration of the Industrial Design within 6 months from the date of a written notice sent by the Employee that he/she has finished creating the Industrial Design, it shall be deemed that the Employer forfeits his/her right and the Employee has the right to apply for the registration of such Industrial Design.
 - (c) when the registration is applied for the Industrial Design that was created within a year after the expiry of the employment contract, if the Employee created such Industrial Design within the scope of business of the previous Employer, and if this is not contrary to the terms and conditions of the employment contract and the Employee cannot submit any contrary evidence, such Industrial Design shall be deemed as the design created subject to the expired employment contract and the previous Employer has the right to apply for the registration of it. However, the Employee has the right to apply for the registration if:
 - (i) the previous Employer agrees that he/she will not apply for the registration of the Industrial Design;
 - (ii) the previous Employer cannot deny the evidence submitted by the Employee;
or
 - (iii) the Employer fails to apply for the registration as per sub-section (b).
 - (d) when the Employee creates an Industrial Design not under the Employer's instruction but by using the Employer's equipment, information or technology and the Industrial Design is covered under the business scope of the Employer and if this is not contrary to the terms and conditions of the employment contract, only the Employee has the right to apply for the registration of such Industrial Design.
 - (e) if the Employee creates other Industrial Design except the one mentioned in sub-sections (a), (c) and (d) and if this is not contrary to the terms and conditions of the employment contract, only the Employee has the right to apply for the registration of such Industrial Design.

Chapter IX

Application

17. If a person who has the right to apply for the registration of the Industrial Design under this Law is desirous to obtain the Industrial Design Right, he/she shall apply to the Department for registration in accordance with the stipulations.
18. A person who applies to register the Industrial Design:
 - (a) can apply for one or more Industrial Designs in a single application if such Industrial Designs used in products belong to the same class in the International Industrial Design Classification Agreement mentioned in the Locarno Treaty.
 - (b) The application for registration can be written either in Myanmar or English.
 - (c) If the Registering Officer requests to translate the application from Myanmar to English or from English to Myanmar, the request shall be fulfilled.
 - (d) The applicant shall sign in the translation made under sub-section (c) for authentication.
19.
 - (a) The applicant for the Industrial Design Registration must mention the following information in the application:
 - (i) the request to register;
 - (ii) the name and address of the applicant or legal entity;
 - (iii) the name and address of the representative if the applicant appoints the representative for the application;
 - (iv) a clear and complete description of the Industrial Design; and
 - (v) reference to the Product that includes Industrial Design or depicted with Industrial Design.
 - (b) The following additional information shall be attached to the application apart from the information mentioned in sub-section (a):
 - (i) the registration number of a legal entity, type and country of origin if the applicant applies for such legal entity;
 - (ii) sound evidence and description to show that there is a Priority Right and request to it if the applicant applies for the Priority Right;
 - (iii) sound evidence and description to show that there is a Priority Right relating to Trade Show and request to it if the applicant applies for the Priority Right relating to Trade Show; and
 - (iv) other requirements specified by the Department from time to time.
20. The date on which the Department receives the payment of the prescribed fee and the Industrial Design registration application that meets the criteria under section 19 sub-section (a) shall be deemed as the submission date of the application for registration.
21.
 - (a) If more than one person apply for registration of identical or similar Industrial Design on different dates, the application with the earliest date shall be allowed for registration.

- (b) If the respective applicants apply for the Priority Right or Priority Right relating to Trade Show, the applicant with the earliest date of Priority Right shall be allowed registration.
22. If more than one person apply for registration of identical or similar Industrial Designs on the same day or applies for the same date of Priority Right:
- (a) the Registering Officer shall instruct all the applicants to discuss among themselves and report back within the specified timeline of the name of the person to be regarded as the Industrial Design applicant.
 - (b) The applicants shall report back to the Registering Officer of the name of the person to whom they have agreed to regard as the Industrial Design applicant as a result of the mutual discussion among themselves held in accordance with the instruction of the Registering Officer, or if they are desirous to regard themselves as associate applicants, shall report back to the Registering Officer of this desire.
 - (c) No Registering Officer shall approve the applicants' Industrial Design unless the applicants reach the agreement under the instruction mentioned under sub-section (a).
23. A person who applies for registration of the Industrial Design:
- (a) can, on payment of the prescribed fee, apply to the Registering Officer to amend the application or translation or any wrong written information or other correctable mistakes either before the Registering Officer approves or refuses to register the Industrial Design or before the Director General decides regarding the appeal on the decision of the Registering Officer;
 - (b) can apply to withdraw all or some of Industrial Designs included in the application if the application contains more than one Industrial Design; and
 - (c) can, on payment of the prescribed fee, apply to divide any application that include a number of Industrial Designs into two or more new applications.
 - (d) When the application is, subject to sub-section (c), divided into new applications, the original application date shall be deemed as the application submission date.
24. The Registering Officer may, regarding the application made under section 23, approve the amendment to the application in accordance with the stipulations.

Chapter X

Inspection, Objection and Registration

25. The Inspection Officer, regarding the application for Industrial Design Registration:
- (a) shall screen the application to check if it meets the criteria under sections 18 and 19 and submit the complete application to the Registering Officer together with his/her remarks;
 - (b) shall send the notice to the applicant to amend the application if it does not meet the criteria under sections 18 and 19. If the applicant does not revise the application within 30 days starting from the date of the notice, it shall be deemed that the applicant forfeits its application.
 - (c) Upon receipt of the revised application within the prescribed timeline as per sub-section (b), the Inspection Officer shall, after screening, report it to the Registering Officer together with his/her remark.

- (d) The Inspection Officer shall, if the Industrial Design is not covered under the definition mentioned in section 2 sub-section (g) or the Industrial Design is the one for which no protection is available in accordance with section 13 sub-section (b), report this to the Registering Officer together with his/her remark in order to refuse the application.
26. A person who applies to register the Industrial Design:
- (a) in case where he/she fails to revise the application within the prescribed timeline and has to forfeit the right to application due to his/her failure, may re-apply for the registration of Industrial Design in accordance with the following conditions:
 - (i) submitting a request within 60 days from the date of forfeiture due to the failure to revise the application within the prescribed timeline;
 - (ii) attaching all the explanations, information or requirements relating to the failure to revise the application within the prescribed timeline with the request;
 - (iii) describing in the request the reasons for failure to revise the application within the prescribed timeline;
 - (iv) the Registering Officer discovering that the applicant has failed to comply within the prescribed timeline without intention; and
 - (v) having paid the prescribed fee.
 - (b) The Registering Officer shall postpone the case if any request is made to return the right relating to the application under sub-section (a) during the appeal period.
27. The Registering Officer, in relation to the application for the registration of Industrial Design:
- (a) may, upon receipt of the re-application made under section 26 sub-section (a) in order to register the forfeited Industrial Design right, approve it after screening if it seems to him/her that the Industrial Design right will be lost.
 - (b) The application that meets the criteria under sections 18 and 19 must be announced in accordance with the stipulations for public information and objection.
 - (c) If the applicant requests to postpone the announcement to be made under section 33, the Industrial Design shall not be announced or disclosed before the expiry of the postponed period.
28. Any person who wants to object to the application of registering Industrial Design may, on payment of the prescribed fee, submit the objection letter to the Registering Officer by showing any of the following reasons within 60 days from the date of announcement:
- (a) the Industrial Design is not covered under the definition under section 2 sub-section (g);
 - (b) the Industrial Design is not new;
 - (c) the Industrial Design cannot be protected in accordance with section 13; and
 - (d) there is sound evidence showing that the applicant does not have the right to apply for registration.
29. The Registering Officer shall, upon receipt of the objection letter, send the notice to the applicant in order to defend himself/herself within the prescribed period.

30. The Registering Officer, in relation to the application for the registration of Industrial Design:
- (a) may approve the application for the registration of Industrial Design if there is no objection within 60 days from the date of announcement for public information;
 - (b) shall screen the objection letter, in case it is submitted, and may approve or refuse it;
 - (c) shall enter the approval or refusal of registration in the Register and notify the applicant. Moreover, the approval or refusal of registration shall be announced in accordance with the prescribed manner.
 - (d) If the registration is approved, the Industrial Design Registration Certificate shall be issued to the applicant.
31. The Owner of an Industrial Design: -
- (a) may, on payment of the fee prescribed by the Department, apply to the Registering Officer to obtain a true copy of the Industrial Design Registration Certificate in case the original Industrial Design Registration Certificate is lost or damaged; and
 - (b) may, on payment of the prescribed fee, apply to the Registering Officer to amend the wrong information written in the Register, other correctable mistakes or nationality and addresses.
32. The Registering Officer: -
- (a) shall issue the true copy of the Industrial Design Registration Certificate after screening the application made under section 31, sub-section (a); and
 - (b) may approve the amendment after screening the application made under section 31 sub-section (b).

Chapter XI

Postponing the Announcement

33. The applicant of the Industrial Design registration may, in accordance with the stipulations, request the Registering Officer to postpone the announcement of Industrial Design by describing the desirous period of postpone in the application. The requested postponement period shall not be more than 18 months from the date of Industrial Design registration date or date of Priority Right application date.
34. The applicant may, even though he/she has requested to postpone the announcement of Industrial Design as per section 33, request the Registering Officer to cancel the request and announce the registration of Industrial Design within the requested period.
35. The Registering Officer, in relation to the announcement of Industrial Design:
- (a) shall keep the file relating to the Industrial Design in confidence and enter in the Register if the announcement is postponed in accordance with section 33;
 - (b) shall make a note that on the file that during the postponed period the announcement has been postponed, the description of the applicant, date of application, requested period of postponement and other relevant information;
 - (c) shall announce the application for registration of Industrial Design when the prescribed period of postponement comes to an end.

Chapter XII

Priority Right

36. A person who has applied for registration of Industrial Design in any Paris Convention Country or World Trade Organization Contracting Country may, if he/she applies for the same Industrial Design at the Department within 6 months from the date of first application, be entitled to Priority Right.
37. A person may be entitled to Priority Right relating to Trade Show if he/she applies for registration of the Industrial Design, which has been displayed at the international trade show organized or recognized by the government of at the any Paris Convention Country or World Trade Organization Contracting Country, at the Department within 6 months from the date of such display.
38. The Priority Right relation to Trade Show shall not be more than the period of Priority Right effective from the date of application under section 36.

Chapter XIII

Registration Term and Renewal of Registration

39. The term of the registered Industrial Design is five (5) years from the date of application for Industrial Design registration. The registration is renewable for 15 years, each term will last five years.
40. The Owner of an Industrial Design shall perform the following procedure if he/she is desirous to renew the registration:
 - (a) shall, on payment of the prescribed fee, apply for renewal within six (6) months from the expiry date of registration;
 - (b) may apply for renewal within six (6) months offered under special privilege if the application is made after the expiry of registration. The applicant must pay the prescribed registration fee and overdue fine in this case.
41. The Registering Officer:
 - (a) may approve the application for renewal if it meets the criteria. The renewal of registration shall be effective on the expiry date of the previous registration;
 - (b) shall renew the term of registration for five (5) years after screening the application for renewal, and if it meets the criteria, shall announce it in the prescribed manner;
 - (c) shall enter the renewal of registration and payment of fees in the Register;
 - (d) may terminate the registration of Industrial Design if the Owner of an Industrial Design fails to pay the prescribed fee within six (6) months offered under special privilege for renewal of registration;
 - (e) shall enter the termination of registration in the Register and announce this in the prescribed manner.

Chapter XIV

Rights of the Registered Industrial Design

42. The Owner of an Industrial Design shall be entitled to the rights of the Industrial Design registered under this Law during the registration validity period if he/she complies with the provisions under Chapter XIII of this Law.
43. Without prejudice to the provisions in sections 46 and 47, the Owner of an Industrial Design has the right: -

- (a) as an exclusive right:
 - (i) to prevent and protect the creation, sale or import of the products that are featured with or comprised of the Industrial Design that copy the main features of the registered Industrial Design or that copy the Industrial Design registered under this Law;
 - (ii) to sue any person who has infringed the rights of registered Industrial Design by civil proceedings.
 - (b) The Owner of an Industrial Design may transfer the rights of the registered Industrial Design to any other person or allow him/her to apply them in accordance with the provisions under Chapter XV and XVI.
44. The Employer shall be entitled to the Industrial Design for which the Employee has the right to apply for the registration in accordance with section 16 sub-section (d).
45. Unless otherwise agreed by the multiple Owners of an Industrial Designs: -
- (a) each Owner of an Industrial Design shall be equally entitled to the undivided rights of the registered Industrial Design;
 - (b) each Owner of an Industrial Design may transfer his/her undivided rights of the registered Industrial Design to any other person or allow him/her to apply them; and
 - (c) each Owner of an Industrial Design may sue the person who has infringed the registered Industrial Design right by civil proceedings without requiring the agreement of other Owners of such Industrial Design.
 - (d) A person or legal entity that are successors in title to the rights of the Owner of an Industrial Design shall be entitled to the rights mentioned in sub-sections (a), (b) and (c).
46. The Owner of an Industrial Design shall not use his/her rights for:
- (a) private matters and transactions that are not commercially related;
 - (b) testing or research activities; or
 - (c) re-generating in order to use as a reference or teaching/training.
47. The rights of the registered Industrial Design shall not apply to the products with Industrial Design that are officially sold or imported to the Union either by the Owner of an Industrial Design or a person who is approved by the Owner of an Industrial Design.

Chapter XV

Assigning the Industrial Design Rights

48. (a) A person who applies to register the Industrial Design may apply to the Department in order to assign its application for Industrial Design registration to a person or legal entity in accordance with the stipulations.
- (b) The Owner of an Industrial Design may transfer his/her registered Owner of an Industrial Design to a person or legal entity in accordance with stipulations.
49. The Registering Officer shall, upon receipt of the application to record the transfer of ownership either by the person who applies to register the Industrial Design or the assignee under section 48 sub-section (a) or the Owner of an Industrial Design or the transferee under

section 48 sub-section (b) and on payment of the prescribed fee, record the transfer of ownership and announce it for public information in the prescribed manner.

50. The application to register Industrial Design or to register the transfer of registered ownership of an Industrial Design shall meet the criteria.
51. The transfer of ownership shall not be effective unless the application is submitted to the Department regarding the transfer of registered ownership of an Industrial Design.

Chapter XVI

Authorizing to use Registered Industrial Design

52. The Owner of an Industrial Design may authorize a person or legal entity to use his/her registered Industrial Design by determining the terms and conditions.
53. A person who is authorized by the Owner of an Industrial Design to use his/her Industrial Design shall apply to the Department to register the authorization of Industrial Design by submitting the true copy of the authorization and paying the prescribed fee.
54. The Registering Officer shall record the authorization of Industrial Design in accordance with section 53 and announce it to the public in the prescribed manner.
55. If a person who is authorized by the Owner of an Industrial Design to use the Industrial Design applies to the Registering Officer to remove the authorization, the Registering Officer shall remove it from the Register and announce it to the public in the prescribed manner.
56. The use of Industrial Design with authorization shall not be effective unless the application is submitted to the Department for record.

Chapter XVII

Announcing the Registration of Industrial Design Illegal and Removing

57. If the registered Industrial Design that is not in accordance with this Law is found to have negative impacts on individuals or the public, the relevant person or legal entity may apply to the Registering Officer to announce the whole or part of such registered Industrial Design illegal.
58. If the Registering Officer discovers that, according to the application made by the relevant person or legal entity:
 - (a) the registered Industrial Design cannot be protected as per the provisions in section 13;
 - (b) it is not covered under the definition mentioned in section 2 sub-section (g);
 - (c) it is not new;
 - (d) there is sound evidence showing that the Owner of an Industrial Design is not entitled to such registered Industrial Design;
 - (e) the registered Industrial Design has been obtained by fraud or by falsified documents or by omitting some information; or
 - (f) if the Registering Officer receives the Court's final or conclusive decision regarding the application to announce the registered Industrial Design illegal,he/she may announce the whole or part of the registration of such Industrial Design illegal.
59. The Registering Officer can remove the Industrial Design from the Register if:

- (a) the applicant fails to renew the registration within the special privilege offering period of six (6) months from the date of expiry of registration;
 - (b) the Owner of an Industrial Design forfeits its ownership; or
 - (c) the Industrial Design is announced as being illegal as it is covered under the criteria in section 58.
60. The Registering Officer shall record the removal of Industrial Design from the Register and notify the public and the Owner of an Industrial Design of the removal in the prescribed manner.

Chapter XVIII

Application for International Registration

61. After the Union has become a member to the Agreement for International Industrial Design Registration System, any person be that from within or outside of the Union who is desirous to register Industrial Design and practise International Registration System may apply to the Department in accordance with the stipulations.

Chapter XIX

Appeal

62. (a) Any person who is not satisfied with the decision made by the Registering Officer under this Law may appeal to the Director General within 60 days starting from the announcement date of decision.
- (b) The Director General may, upon receipt of the appeal made under sub-section (a) rectify, withdraw or amend the decision of the Registering Officer or instruct to submit more evidence.
63. Any person who is not satisfied with the decision made by the Director General may appeal to the Court conferred power and jurisdiction by the Union Supreme Court for that purpose within 90 days from the receipt date of decision.

Chapter XX

Establishment of the Court

64. The Union Supreme Court:
- (a) may establish the Courts in the relevant regions and states and appoint the judges in order to inspect and judge the civil or criminal proceedings relating to Intellectual Property Rights;
 - (b) may confer the power and jurisdiction to the judges appointed under sub-section (a) in order to inspect and judge the cases relating to Intellectual Property Rights;
 - (c) may confer the power and jurisdiction of the Intellectual Property Rights Court to the Courts that have been conferred power to inspect and judge Intellectual Property Rights related matters before the establishment of the Courts under sub-section (a);
 - (d) shall determine the jurisdiction and power of the Courts that should have jurisdiction over the appeal and amendment to the judgements, orders and decisions made by the Courts; and
 - (e) may confer the jurisdiction and power to the relevant Court to inspect and judge the appeal that lies against the decision of the Director General.

Chapter XXI

Powers of the Court regarding the Infringement of the Registered Industrial Design Right

65. (a) Any person who has been aggrieved may apply to the Court for temporary injunction in accordance with the provisions in sections 66 and 67.
- (b) Any person who has been aggrieved may apply to the Court to file a civil proceeding.
66. (a) The Court may, upon receipt of the application made by the plaintiff alleging that the registered Industrial Design Right has been infringed in accordance with section 65 sub-section (a), pass any of the following temporary injunction orders:
- (i) the reasonable order to prevent and protect the infringement of the registered Industrial Design Right and stop the entry of products for which customs has been cleared, but that have infringed the registered Industrial Design Right, into the trade route of the Union; or
 - (ii) the reasonable order to maintain the evidence to establish that the registered Industrial Design Right has been infringed.
- (b) The Court may request the following from the plaintiff to issue the temporary injunction: -
- (i) to submit any reasonable and sufficient evidence to show that the plaintiff is the Right Holder and his/her right is likely to be infringed; and
 - (ii) to take out the adequate insurance in order to prevent the misuse of the temporary injunction.
- (c) The Court may, while taking actions under the temporary injunction, instruct the plaintiff to submit any further information in order to identify the products that are alleged to have infringed.
- (d) If the civil proceeding does not start within the reasonable timeline specified by the Court or if the Court does not specify the reasonable timeline, within the timeline longer of 31 calendar days or 20 working days from the date of temporary injunction, the Court shall, without prejudice to section 67 sub-section (b), withdraw the temporary injunction passed under sections 66 (a) and 67(a) or make it ineffective upon the application of the defendant in order to make the final decision for the damages starting from the date of commencement of the temporary injunction.
- (e) The Court may order the plaintiff to pay the reasonable and adequate compensation to the defendant for damages incurred due to temporary injunction requested by the plaintiff if temporary injunction is withdrawn or terminated by the Court due to an act or omission of the plaintiff or if the Court discovers that the registered Industrial Design is unlikely to be infringed.
67. (a) The Court may, in the following conditions, pass one-sided temporary injunction:
- (i) when there is a delay that is likely to result in damages on the Right Holder that cannot be remedied; or
 - (ii) when the evidence is at risk of being destroyed.
- (b) When the Court passes a one-sided temporary injunction:
- (i) it shall notify the defendant promptly without delay;

- (ii) it shall complete the performance under temporary injunction if the defendant fails to comply within the timeline it thinks fit or within 20 working days from the date of notice; and
 - (iii) it shall conduct the hearing and inspection process between the plaintiff and defendant within the reasonable period of time upon request made by the defendant in order to amend, withdraw or rectify such temporary injunctions.
- 68. The Court may, without prejudice to the civil laws and civil procedure code, pass any of the following orders regarding the infringement of the Industrial Design Rights:
 - (a) the order to stop the infringement of Industrial Design Right including the prevention of the entry of products for which customs have been cleared, but that have infringed Industrial Design Right, into the trade route of the Union;
 - (b) the order to cause the person who has infringed the registered Industrial Design Right to pay the sufficient damages to the Right Holder as compensation for the damage suffered by him/her due to infringement of the registered Industrial Design Right or the order to return the damages specified and claimed by the Right Holder in advance or the benefit enjoyed by the person who has infringed or both;
 - (c) the order causing to be paid the relevant expenses incurred by the Right Holder including legal expenses and attorney fees.
- 69. (a) When the Court passes the final order for the infringement in accordance with the civil procedure code on the application made by the Right Holder, it may pass the following orders relating to the evidentiary material: -
 - (i) destroying products that have infringed or prohibiting them not to enter into the trade route of the Union; or
 - (ii) prohibiting any materials or equipment that are mainly used to create products that have infringed the Industrial Design Rights without paying compensation into the trade route of the Union to minimize further infringement.
 - (b) The Court shall, in exercise of its ancillary powers in accordance with sub-section (a), consider the following facts: -
 - (i) the impact due to the order of prohibition;
 - (ii) the balance between the extent of infringement and the order to destroy;
 - (iii) the impact of the manner of destroying on the environment; and
 - (iv) the impact on the legal interests of other people.
- 70. In case where any person is found to have falsely claimed that the registered Industrial Design Right has been infringed, he/she shall be not only liable to pay for the compensation to the defendant who has been wrongly prevented due to his/her claim but also liable to pay for legal expenses including attorney fees and other expenses incurred by the defendant.
- 71. (a) The Court may, without prejudice to the provisions in other laws in force and by protecting confidential information, order the defendant to submit evidence when:
 - (i) the Right Holder submits sound evidence to firmly support its claims; and
 - (ii) he/she firmly describes that the defendant is also in possession of sound evidence relating to such claims.

- (b) The Court may, in the case of infringement without a sound reason, hear the accusations or evidence of the aggrieved person and the person who has infringed or the evidence if:
 - (i) they refuse to provide the required information;
 - (ii) they are unable to send the required information during the reasonable period of time; or
 - (iii) they significantly hinder taking required processes; and may pass the preliminary and final decisions to rectify or deny the plaintiff and defendant's accusations and refusals.
- 72. The Court may pass an order to the person who has infringed to identify other persons who are involved in manufacturing or distributing the products that have infringed the registered Industrial Design Right.
- 73. The Court may act in accordance with the provisions of the civil procedure code unless the provisions relate to the taking of actions for the infringement of the registered Industrial Design Rights.

Chapter XXII

Offences

- 74. Any person who has been convicted of having committed any of the following acts shall be punishable with imprisonment for a term of not more than one (1) year or with fine of not more than two (2) million kyats or both: -
 - (a) issuing or causing to be issued the Industrial Design Certificate fraudulently;
 - (b) making or causing to be made a false entry in the Register dishonestly;
 - (c) disclosing any confidential Industrial Design to any irrelevant person during the confidentiality period; or
 - (d) before announcing the documents relating to the application for Industrial Design, giving any irrelevant person, disclosing to the public or permitting any irrelevant person to use without permission during the specified period.
- 75. Any person who has failed to comply with the order passed under section 72 shall be punishable with imprisonment for a term of not more than six (6) months or with fine of not more than 1.5 million kyats or both.

Chapter XXIII

Miscellaneous

- 76. Notwithstanding any provisions mentioned in any other laws in force, an offence relating to the Industrial Design under this Law shall be taken by actions only under this Law.
- 77. The Registering Officer shall provide the right to appeal to any person who has been aggrieved by his/her reasoned decision made in exercise of the power conferred under this Law.
- 78. The Registering Officer may submit a copy of the Industrial Design registration certificate and documents that are stamped and signed for authentication and the government department and legal entity to the relevant Court as evidence.

79. In case of a civil proceeding filed under this Law, if it is not easy to submit the evidence, it is not necessary to do so and a report or other relevant document may be submitted to show how such evidence is maintained. Such submission shall be deemed as if the evidence was submitted before the Court and the relevant Court may pass an order to manage such material evidence.
80. The infringement and breach of the registered Industrial Design Right shall not apply to the condition in which the government department and a legal entity have a right to use the products that include the registered Industrial Design not for their own interests, but for public interests in case of an emergency state or disaster.
81. The disputes arising among the interested parties of the Industrial Design may be settled either in an amicable manner or by arbitration.
82. In implementing the provisions of this Law:
 - (a) the Union Supreme Court may make rules, regulations, notifications, orders, instructions and procedures;
 - (b) the Ministry:
 - (i) may make rules and regulations under the agreement of the Union Government; and
 - (ii) may make notifications, orders, instructions and procedures.
 - (c) the Department may issue notifications, orders, instructions and procedures under the approval of the Ministry.
83. The Myanmar Patents and Designs (Emergency Provisions) Act, 1964 is repealed by this Law.